IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN, JAIPUR BENCH, JAIPUR

D. B. Civil Special Appeal (Writ) No. 660/2002
in
S. B. Civil Writ Petition No. 3635/1989

(Bhanwari Devi & Ors v. The State of Rajasthan & Ors.)

Date of Judgment: 16th November, 2007

Hon'ble Mr. Justice R. M. Lodha
Hon'ble Mr. Justice R. S. Chauhan

Mr. K. K. Meherish, Senior Counsel with
Mr. Harsh Kulshrestha for the Appellant
Mr. Banwari Lal Avasthi, Additional Government Advocate for the respondents.

(Per R. S. Chauhan J):

Nicholas Machiavelli, the famous Italian political thinker, in his book The Prince, has remarked that people sooner forget the loss of their parents than the loss of their property. This case is a paradigm example of how people tenaciously try to hold on to their landed property. The appellants, the legal representatives of the original petitioner, Ridhkaran, are challenging the judgment dated 31-5-2002, passed in S. B. Civil Writ Petition No. 3635/ 1989, whereby the learned Single Judge has confirmed

the Order dated 11-8-1989 passed by the Board of Revenue (‘ BOR’, for short) and has dismissed the writ petition.

Though the issues raised in this appeal are simple ones, the case has a rather checkered history: the issues involved in this appeal are firstly, whether the BOR and the learned single Judge were justified in treating Ridhkaran’s three sons as being dependent upon him and, thus, members of his family? Or they should have been treated as separate units, for the purpose of calculating the extent of land for the purpose of ceiling, on the basis of the alleged partition that had taken place between Ridhkaran and his three sons in 1965? Secondly, whether the gift of land made by Ridhkaran in favour of his son, Jagdish in 1970 is valid or not? But before we deal with these issues, let us have a resume of the factual matrix of the case:

Wanting to usher in a new era of land reforms,

wanting to ameliorate the conditions of the landless people, wanting to distribute the community resources amongst the largest number of people, in 1960, Chapter III-B was inserted in the Rajasthan Tenancy Act, 1955 ('the Act', for short). The said chapter, entitled "Restrictions of Holdings Land Excess of Ceiling Area", created an upper limit on the extent of agricultural land that could be owned by a person. Thus, it introduced the land ceiling law vis-à-vis agricultural land. The said chapter came into force on 15-12-1963. Invoking the power under Section 257 of the Act, the State Government also enacted the Rajasthan Tenancy (Fixation of Ceiling on Land) (Government) Rules, 1963 ('the Rules', for short). The Rules prescribed the procedure for fixation of ceiling on land. We shall deal with the relevant provisions of the Act and the Rules at the appropriate stage.

It is the case of the appellants that in the village Ren, Tehsil Hindoli, District Bundi, Ridhkaran held 376

Bighas of land, which had come to his share, in 1962, as a result of the partition of the joint family property. Moreover, along with Bhanwarlal and Nagarmal, Ridhkaran's relatives, Ridhkaran had acquired 144 Bighas and 5 Biswas of land. Out of this land, 46 Bighas and 19 Biswas of land had come to Ridhkaran's share. Thus, on the cut off date of 1-4-1966, a cut-off date prescribed by the government under Section 30 E of the Act, Ridhkaran held 422 Bighas and 19 Biswas of land as the Karta of Joint Hindu Family. Moreover, it is their case that an area of 1988 Bighas, 7 Biswas of land was allotted to Ridhkaran, Nagarmal and Bhanwarlal. These three persons were recorded as Khatedar tenants in the revenue records. It is still further their case that Kesri Chand and Rewatmal were cousin brothers of Ridhkaran. They were carrying on their business in Assam. Therefore, the land belonging to them was shown as belonging to Nagarmal and Bhanwarlal. In total, the Joint Hindu Family owned 2132 bighas and 7 biswas of land in the village. In terms of standard acre, the area of land is

576 standard acres.

Although according to Rule 9 of the Rules, Ridhkaran should have declared the land held by him, but he failed to do so. Therefore, the Sub-Divisional Officer ('the SDO', for short) issued a notice to Ridhkaran under Rule 10 of the Rules. (Notices were also issued to Nagarmal and Bhanwarlal. However, presently we are not concerned with the case of Nagarmal and Bhanwarlal). Consequently, on 23-4-1970, Ridhkaran submitted a declaration under the Rules. According to the said declaration, Ridhkaran had claimed the land in question to be ancestral property belonging to the joint Hindu family consisting of himself, and of his three sons namely, Jagdish Kumar, Nirmal Kumar and Vijay Kumar. He had further claimed that his four daughters, namely, Gayatri Devi, Sarla Devi, Kauta Devi, and Sunita were dependent on him. According to him, he and his three sons had entered into an oral partition in 1965. Thereafter, they existed as separate units.

The SDO sent the said declaration for verification under Rule 12 of the Rules to the Tehsildar, Nainwa. After receiving the report of the Tehsildar, the SDO served a notice upon Ridhkaran. He simultaneously served notice on Nagarmal and Bhanwarlal. After hearing the parties, vide order dated 30-4-1975, the SDO, Nainwa decided the case of Ridhkaran along with the cases of Nagarmal and Bhanwarlal. The SDO clubbed all the lands belonging to Ridhkaran, Nagarmal and Bhanwarlal together and held that the family held 2132 Bighas of land. He further held that the families of Ridhkaran, Nagarmal and Bhanwarlal consist of five members each. Therefore, they were entitled to retain 30 standard acres of land. According to him, 486 standard acres of land was surplus. Lastly, he imposed a penalty of Rs. 500/- on each of the assessee for their failure to surrender the land to the State.

Since Ridhkaran was aggrieved by the said order, he filed an appeal before the Revenue Appellate Authority

('RAA', for short). The other co-tenants, Nagarmal and Bhanwarlal co-jointly filed an appeal before the RAA. Before the RAA, Ridhkaran contended that the land in question was ancestral property, which belonged to his joint family consisting of himself and his three sons, of Rewatchand and his three sons (including Nagarmal as one of Rewatchand's sons), of Kesarichand and his three sons and of Bhawarlal. He further claimed that in 1962 the said ancestral property was divided amongst the family members. Thus, after 1962, the joint Hindu family consisted of Ridhkaran, of his wife, Bhawari Devi, of his three sons and his four daughters. Moreover, in 1965 he and his sons had partitioned the ancestral property belonging to them. Thus, the three sons should be treated as separate entities. Moreover, according to him, 87 Bighas, 8 Biswas of land was gifted by him to his eldest son, Jagdish vide gift deed dated 20-5-70, which was registered on 30-5-70. Therefore, the said transfer should be considered as valid transfer while calculating the limit of land for the purpose of ceiling.

However, vide Order dated 10-2-1976, the RAA rejected the contentions raised by Ridhkaran; it held that he had failed to prove that the land was ancestral property of his joint Hindu family consisting of him, his cousin brothers and of their respective children. In fact, the RAA noticed that both in the return of the wealth tax filed by the family members, and in the arbitration matter between the family members, the land was claimed to have belonged to the members of the family in their individual capacity and not as ancestral property. Therefore, the factum of the land being ancestral property of the family from the very beginning was not established and proved. Since the land was not ancestral property, therefore, the question of partition does not even arise. Further, since the land was transferred after the cut-off date of 31-12-1969 mentioned in Section 30 DD of the Act, the transfer was not valid under Section 30 DD of the Act. However, while rejecting the contentions raised by Ridhkaran, the RAA partly allowed the appeal and

directed that the calculation of standard acres should be done according to the classification of the land. He further set-aside the penalty imposed by the SDO and remanded the case back to the SDO.

Since Ridhkaran, Nagarmal and Bhanwarlal were still aggrieved by the Order dated 10-2-1976, they filed two separate revision petitions before the BOR. Before, the BOR, Ridhkaran raised two contentions: firstly, the SDO has incorrectly calculated the number of family members as five; secondly, the RAA has erred in holding that the land transferred to Jagdish was not in terms of Section 30 DD of the Act. But, vide Order dated 4-3-1977, the BOR held that the term “family” has been defined in Section 30 B of the Act as consisting of husband and wife, their children and grand-children being dependent on them and the widowed mother of the husband so dependent. According to the declaration submitted by Ridhkaran, he had shown only his four daughters as being dependant on him. Therefore, the sons could not

be included in the term “family” as defined by Section 30 B of the Act. Moreover, even in the revision petition, Ridhkaran had claimed only three daughters to be dependent upon him, as one of the daughters, namely Gayatri, was married of. Therefore, according to the BOR, the SDO was justified in concluding that Ridhkaran’s family consisted of only five members. The BOR also upheld the finding of the RAA with regard to the transfer of land to Jagdish.

Although Ridhkaran filed a review petition, but it was dismissed vide Order dated 19-7-1977. Subsequently, Ridhkaran filed a writ petition before this court. Before this court, he raised three contentions: firstly, the BOR failed to properly appreciate the declaration submitted by him; secondly, since the concerned authority did not question the declaration, the three sons should have been treated as separate entities; thirdly, in the alternatives, the sons should be treated as dependents upon him and should be treated as members

of his “family” as defined in Section 30 B of the Act. Vide judgment dated 21-7-1988, this court accepted the contentions raised by Ridhkaran and set-aside the Orders dated 4-3-1977 and 19-7-1977 and remanded the case back to the BOR.

Consequently, the BOR again heard the parties and vide Order dated 11-8-1989 held that Ridhkaran’s family shall be taken to consist of eight members, i.e. of Ridhkaran, his wife, of three daughters (one of the daughters to be excluded as she was married off according to Ridhkaran himself) and of his three sons. The BOR further directed that Ridhkaran would be allowed to retain 45 standard acres of land, the standard acres will be re-calculated according to the soil classification as on 1-4-1966 and remanded the case back to the SDO. Since Ridhkaran was still aggrieved by the said Order, he filed a writ petition before this court. But during the pendency of the writ petition, Ridhkaran expired. Consequently, his legal representatives were

taken on record. They are the present appellants before us. Vide judgment dated 31-5-2002, the learned Single Judge, as mentioned above, upheld the Order dated 11-8-1989 and dismissed the writ petition. Therefore, this appeal before this court.

Mr. K. K. Mehrishi, Senior Advocate and the learned counsel for the appellants, has raised the following contentions before us: firstly, that the land in question was ancestral property belonging to the joint Hindu family consisting of Ridhkaran and his three sons, namely Jagdish Kumar, Nirmal Kumar and Vijay Kumar. Secondly, in 1965, the said ancestral property was orally partitioned between Ridhkaran and his three sons. The fact of partitioning of the property was mentioned in the declaration filed by Ridhkaran. Thirdly, the concerned authority had not questioned the said declaration. Even this court, in its order 21-7- 1988, did not question the declaration. In fact, it directed the BOR to reassess the evidence on the basis of the declaration. Fourthly, once

this court had given a categorical finding about the declaration, vide its order dated 21-7-1988, it was not for the BOR to re-examine the same. In fact, based on the declaration, the BOR should have taken the three sons to be separate entities. In order to buttress these two contentions, the learned counsel drew our attention to the declaration submitted as Annexure-A in the writ petition and to the order dated 21-7-1988. Fifthly, Rule 17 (4) of the Rules provides for contingencies even where no partition has taken place on the appointed date and the shares would have been allotted to such member of the family, if the partition or division was to take place on the date of determination of the ceiling. Thus, the BOR and the learned Single Judge should have carried out the legal fiction created under Rule 17 (4) of the Rules to its logical conclusion. Lastly, the transfer of 87 Bighas of land made by Ridhkaran in favour of his son Jagdish has wrongly been held to be invalid under Section 30 DD of the Act.

Mr. Bhanwari Lal Awasthi, the learned Additional Government Advocate, while supporting the impugned judgment, has argued that Ridhkaran had failed to establish the land to be ancestral property. As the land was not ancestral property in nature, it could not be partitioned between Ridhkaran and his three sons. Moreover, since 87 Bighas of land was transferred to Jagdish after the cut-off date, as given in Section 30 DD of the Act, the said transfer was invalid for the purpose of calculating the extent of land for the purpose of land ceiling.

Before we discuss the merits of the case, let us first peruse the relevant provisions of the Act and of the Rules. Section 30 B of the Act defines the term “family” as meaning “a family consisting of a husband and wife, their children and grand-children being dependent on them and the widowed mother of the husband so dependent”.

Section 30 C lays down the extent of ceiling area

as under:

> 30C. Extent of ceiling area.--The ceiling area for a family consisting of five or less than five members shall be thirty standard acres of land:
>
> Provided that, where the members of a family exceed five, the ceiling area in relation thereto shall be increased for each additional member by five standard acres, so however that it does not exceed sixty standard acres of land.
>
> Explanation—A 'Standard acre' shall mean the area of land which, with reference to its productive capacity, situation, soil classification and other prescribed particulars, is found in the prescribed manner to be likely to yield ten maunds of wheat yearly, and in case of land not capable of producing wheat, the other likely produce thereof shall, for the purpose of calculating a standard acre be determined according to the prescribed scale so as to be equivalent in terms of money value of ten maunds of wheat :
>
> Provided that, in determining a ceiling area in terms of standard acres, the money value of the produce of well-irrigated (chahi) land shall be taken as being equivalent to the money value of the produce of an equal area of un-irrigated (barani) land.

Section 30 D of the Act bars the recognition of certain transfers for the purpose of fixing the ceiling area under Section 30 C as under:

30D. Certain transfers not to be recognised for fixing ceiling area under Section 30C.-- (1) For the purpose of determining the ceiling area in relation to a person under Section 30C, any voluntary transfer effected by him on or after 25.2.1958, otherwise than--

(i) by way of partition, or

(ii) in favour of a person who was a landless person before the said date and continued to be so till the date of transfer,

of the whole or a part of his holding shall be deemed to be a transfer calculated to defeat the provisions of this Chapter and shall not be recognised and taken into consideration; and the burden of proving whether any such transfer fails under clause (i) or clause (ii) shall lie on the transferor :

Provided that if by way any such transfer as is mentioned in clause (ii) land in excess of the ceiling area applicable to the transferee has been transferred to him, such transfer to the extent of such excess shall not be recognised or taken into consideration for the purpose of this sub-section :

Provided further that no such transfer as is mentioned in clause (ii) shall also so taken into consideration or recognised if it has been made after 9.12.1959.

(2) Every such transfer as is mentioned in sub-section (1) shall, notwithstanding anything contained in this Act or in any other law for the time being in force in the whole or

in any part of the State, be not enforceable as against the State Government in respect of any land forming the subject matter of such transfer and coming to the State Government under Section 30E.

(3) Notwithstanding the provision contained in sub-section (2), the transferee of the land referred to therein shall be entitled to claim from the transferor thereof a refund of the consideration money, if any, paid by him for such land and the amount thereof shall be a charge on the compensation money payable by the State Government in respect of such land under Section 30G.

(4) Nothing in this section shall apply to the lawful letting or sub-letting respectively of Khudkhasht land or a tenant's holding or any part of either.

On the other hand, Section 30 DD of the Act permits the recognition of certain transfers for the purpose of fixing ceiling area as under:

30DD. Certain transfers to be recognised.--Notwithstanding anything to the contrary contained in Section 30D, for the purpose of determining the ceiling area in relation to a person under Section 30C,--

(i) every transfer of land not exceeding thirty standard acres made by a person up to the thirty first day of December, 1969 in favour of an agriculturist domiciled in Rajasthan or in favour of his son or brother intending to

take to the profession of agriculture and capable of cultivating land personally and who had attained the age of majority on or before the said date; and

(ii) every transfer to the extent as aforesaid made by a person before the first day of June, 1970 of land comprised in groves or farms of the nature referred to in clauses (a), (b), (d) and (e) of sub-section) 1) of Section 30-J as it stood prior to the commencement of the Rajasthan Tenancy (Second Amendment) Act, 1970 and acquired before the first day of May, 1959 in favour of his son or brother fulfilling the conditions mentioned in clause (i_ and who attains the age of majority on or before the first of the aforemention dates,

shall also be recognised

Explanation-I. The expression “agriculturist” in this section shall mean a person who earns his livelihood wholly or mainly from agriculture and cultivates land by his ow labour or by the labour of any member of his family or along with such labour as aforesaid with the help of hired labour or servant on wages payable in cash or in kind and shall include an agricultural labourer and a village artisan.

II. The expression “domiciled in Rajasthan” in this section shall mean a person who permanently resides in Rajasthan since before the commencement of this Act.

Section 30 E fixes the maximum land that can be held and places restriction on future acquisitions as

under:

30E. Maximum land that can be held and restriction on future acquisitions.--(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, no person shall, as from a date notified by the State Government in this behalf,--

(a) continue to hold or retain in his possession in any capacity and under any tenure whatsoever land in excess of the ceiling area applicable to him, or

(b) acquire, by purchase, gift, mortgage, assignment, lease, surrender or otherwise or by devolution or bequest, any land so as to effect an increase in the extent of his holding over the ceiling area applicable to him :

Provided that different dates may be so notified for different areas of the State.

(2) Every person, who, on such date, is in possession of land in excess of the ceiling area applicable to him or who thereafter comes into possession of any land by acquisition under clause (b) of sub-section (1), shall within six months of such date or within in three months of such acquisition, as the case may be, make a report of such possession or acquisition to, and shall surrender such excess land to the State Government and place it at the disposal of, the Tehsildar within the local limits of whose jurisdiction such land is situate :

Provided that if any person holding or acquiring land in excess of the ceiling area applicable to him holds land in more than one Tehsil he shall have the option to choose

which of the lands held by him in different Tehsils should be surrendered so as to leave with him the land up to the ceiling area applicable to him :

Provided further that the option afforded by the foregoing provisos shall be subject to the limitation that, where the person surrendering excess land under this sub-section holds land, of which some are encumbered and some are not encumbered, the un-encumbered lands, shall so far as may be, be surrendered in preference to encumbered lands.

(3) Any person failing intentionally to make a report or to surrender land as required by sub-section (2) shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(4) Without prejudice and in addition to such conviction and fine the person retaining possession of any land in excess of the ceiling area applicable to him shall be deemed to be a trespasser liable to ejectment from such excess land and to pay penalty in accordance with clause (a) of sub-section (i) of Section 183 :

Provided that the lands, from which a person shall be so ejected shall as far as may be, be unencumbered lands.

(5) All lands coming to the State Government by surrender under sub-section (2) or by ejectment under sub-section (4) shall vest in it free from all encumberances.

(6) Nothing contained in this section shall operate as against the transferor to the extent

his transfers are recognised under Section 30DD.

Rule 17 of the Rules deals with lands held by undivided family or society or association of individuals (whether incorporated or not) or by a company as under:

> 17. Lands held by undivided family, society.--(1) For the purpose of determining the ceiling area, all the lands held individually, by any member of a family or jointly by some or all of the members of a family, shall be deemed to be held by the family.
>
> (2) In calculating the extent of land held by a family or by an individual person the share of the member of the family or of the individual person in the land held by an Hindu undivided family, shall be taken into account.
>
> (3) In calculating the extent of land held by a family or by an individual person, the share of the family or of the individual person in the land held by a firm society or association of individuals (whether incorporated or not) or by a company shall be taken into account.
>
> (4) The share of a member of a family or of an individual person in the land held an Hindu undivided family or the share of a family or of an individual in the land held by a firm, society or association of individuals (whether incorporated or not) by a company shall be deemed to be the extent of land

> which in case such share is held on the appointed date would have been allotted to such a member, person or family had such land been partitioned or divided, as the case may be, on such date; or which in case such share is acquired in any manner whatsoever after the appointed date, would be allotted to such member, person or family if a partition or division were to take place on the date of determination of ceiling area.

The crux of the appellants' case is that the land in question was ancestral property belonging to joint Hindu family consisting of Ridhkaran and his three sons. Since the land was ancestral in nature, it was partitioned between Ridhkaran and his three sons in 1965 through an oral family settlement. This fact was proclaimed in the declaration and the appropriate authority did not question the declaration. Therefore, the BOR and the learned single Judge should have treated the three sons as separate units. In fact, once this court had found the declaration to be valid in its order dated 21-7-1988, it was not for the BOR to re-examine the said declaration and to conclude that the declaration was invalid. Thus, according to the appellants, the BOR and the learned single Judge

have erred in treating the three sons as being members of the family instead of treating them as separate units. Moreover, the transfer of 87 Bighas of land in favour of Jagdish was valid under Section 30 DD of the Act. Hence, the BOR and the learned single Judge have incorrectly held the said transfer to be invalid.

However, these contentions are untenable for the following reasons: firstly, although Ridhkaran had claimed before the RAA and the BOR that the land belonged to the joint family consisting of himself and his three sons, of which he was 'karta', it was inconsistent with his stand that 376 Bighas of land had come to his share in the year 1962 by virtue of the partition of the joint family property. Having himself got 376 Bighas of land from the partition of joint family property, Ridhkaran failed to show by any cogent evidence that he threw this land thereafter in common hotch potch of the joint family comprising of himself and his three minor sons and thereby his three sons become co-owners in the property with him. The

three sons, with regard to the subject land are neither tenants-in-common nor joint tenants. Thus, the story of an oral partition between Ridhkaran and his three sons, in 1965, is untenable as it has been set up to over-reach the ceiling provisions. Hence, the courts below were justified in concluding that the land in question could not have been partitioned between Ridhkaran and his three sons.

Secondly, since the land in question ceased to be coparcenery property having been partitioned in the year 1962 and as a result of that partition, Ridhkaran got 376 Bighas of land and that land having never become joint family property of Ridhkaran and his three sons, there was never an occasion for a family arrangement. It could not have been even otherwise between the father and minor sons since a family arrangement is nothing but an agreement and like any other agreement, the minors could not be privy to such agreement.

Thirdly, before the BOR, Ridhkaran had argued that

in case the partition is taken to be invalid and in case the three sons are not to be treated as separate units, then, in the alternative, they should be taken to be dependent on him and should be treated as members of his family. Obviously, once the BOR concluded that the story of partition was untenable, it had rightly concluded that the sons being minor in 1965, they should be taken to be dependent on Ridhkaran. Hence, the BOR had validly increased the number of family members of Ridhkaran from five to eight. Likewise, the learned single Judge was legally justified in upholding this finding of the BOR.

Fourthly, according to the report of the Tehsildar, which is available in the declaration itself (Annexure A of the writ petition), he has questioned the validity of the declaration. In Part ‘Da’, he has clearly mentioned that the area of land held by the family has not been declared correctly; most importantly, in Part ‘Ga’, he has categorically stated that the land was not transferred in the names of the sons in the revenue records. In Part

‘Kha’, he has held that the number of family members has not been revealed correctly, but the number of daughters dependent on Ridhkaran as shown in Part ‘kha’ is correct. Thus, the contention that the veracity of the declaration was not questioned is unsustainable.

Further, a bare perusal of the declaration clearly reveals that in Part “Gh”, although it is claimed that the three sons had partitioned the property in 1965, but neither the Khasara numbers, nor their areas are revealed in the declaration. This lack of information casts a shadow of doubt on the veracity of the declaration. In case an actual partition had taken place, in case the land was actually mutated in the name of the three sons, the information about the khasra numbers and their areas would have been declared. This doubt is further confirmed by the Tehsildar’s report where he categorically states that the land has not been mutated in the names of the three sons. Hence, but for the mere declaration there is no corroborative evidence to prove the factum of

partition between Ridhkaran and his three sons. The declaration is more of an afterthought to save the property of the family from the operation of the ceiling laws.

Since the veracity of the declaration is questionable, the learned counsel is not justified in claiming that the BOR could not have questioned the said declaration after the finding given by this court vide order dated 21-7-1988. In fact, the said order merely made some observations about the information recorded in the declaration. But, the said order did not give any categorical judicial finding about the declaration. In case these observations were judicial findings, there was no occasion for this court to remand the case back to the BOR for further adjudication. Hence, the BOR was within its jurisdiction to re-examine and critically analyze the evidence in order to draw its own conclusions. Thus, the contention raised by the learned counsel with regard to the error committed by the BOR in re-examining the declaration is unacceptable.

Of course, Rule 17 (4) of the Rules is a deeming provision which provides that the share of a member of a family in the land held by a family shall be deemed to be the extent of land which in case such share is held on the appointed date would have been allotted to such a member had such land been partitioned or divided on such date. However, the benefit of Rule 17 (4) can be given only if the land is an ancestral property belonging to a joint Hindu family. But in the present case, the factum of the land being an ancestral property belonging to the joint Hindu family is conspicuously missing. Thus, the benefit of Rule 17 (4) of the Rules cannot be given to the appellants.

As far as the gift of 87 Bighas of land by Ridhkaran to Jagdish is concerned, Section 30 DD of the Act requires that the land should be transferred prior to 31-12-1969, that it should be transferred to a son, brother or any other agriculturist who is capable of cultivating the

land personally and who has attained the age of majority on or before the said date. However, in the present case, admittedly the gift deed is dated 20-5-70 and it was registered on 30-5-70, i.e. after the cut-off date of 31-12-1969. Therefore, according to Section 30 DD it is not a valid transfer. Hence, the BOR and the learned Single Judge were justified in treating the transfer as invalid.

For the reasons indicated above, there is no force in this appeal. It is, hereby, dismissed. There shall be no order as to costs.

R. S. Chauhan J. R. M. Lodha J.